

Protest Points and Responses – Lone Star Allotment Permit Renewal

	Document	Protest Point	Response
1	EA	<p>We Protest the failure to describe conditions of livestock turn-out on the allotment. WWP noted there are no specifications as to what constitutes “available forage” that would allow the livestock use in the Deep Well/Kennecott pasture. Some quantitative measure of this should be included in the EA and description of the proposed action. BLM responded by saying it uses ocular estimates of forage availability. It did not describe how much forage it allocates to livestock or at what ratio, or how often this essentially ephemeral use is authorized. The BLM should have also considered an “ephemeral only” alternative for the lower parts of the allotment. This is a violation of NEPA.</p>	<p>Available forage is that portion of forage production that is accessible for use by a specified kind or class of grazing animal. For the Lone Star allotment the kind of animal is cattle.</p> <p>Forage allocation for perennial vegetation production (preference) remains the same. Perennial grasses are present in the Deep Well and Kennecott pastures. To protect existing perennial grasses, grazing will only be authorized when it is determined on case by case bases that enough forage is available. Annual ephemeral production cannot be predicted; therefore timing of use of the two lower pastures cannot be predicted. Resting the lower pastures every other year regardless of grazing pressure will also allow the lower pastures to improve from their Maintain status. If forage is not available in the Deep Well/Kennecott pastures during its prescribed year of use, the permittee would utilize nearby private pastures instead. The Final Decision language was modified from that of the Proposed Decision to reflect the authorized grazing system.</p> <p>The Bureau considers the three alternatives presented in the EA represent a reasonable range.</p>
2	EA	<p>We protest the failure to take a hard look at historic resources on the Lone Star allotment. The Lone Star EA states, “Because no historic properties were identified in areas of livestock congregation, no mitigation is recommended...” Lone Star EA at 12. The S&G for the same allotment states, “Seven historic properties were identified</p>	<p>All known livestock concentration locations were evaluated by the team specialist on the ground. These would be the areas where impacts identified in the protest point would occur. No current grazing impacts to historic resources were identified.</p>

		<p>within areas of livestock concentration: while grazing will have no adverse effect on these properties they are eligible for inclusion in the [National Register of Historic Places].” Lone Star S&G at 39. In response to WWP’s comments, the agency determined that since no range developments are proposed, no impacts would be incurred. This fails to consider, analyze, or disclose the other effects livestock grazing has on historic properties, including degradation through defecation, leaning, scratching, or trampling. We protest on this basis.</p>	<p>It is correct that the S&G states that seven historic properties were identified in areas of livestock congregation. It also states that intensive surveys were conducted and concluded that grazing will have no adverse effects on these properties.</p> <p>As part of the cultural resource review, all known range improvements and cattle congregation areas were surveyed by the BLM archeologist. It was determined that while seven historic properties exist, range improvement projects are not a part of the proposed action, leading to the determination of no impact.</p>
3	EA	<p>WWP protests the failure to consider the impacts to the watershed and the failure to take a hard look at hydrologic resources. WWP raised this issue regarding range infrastructure in its protest of the Lone Star proposed decision, but the current EA doesn’t provide any more information pursuant to that request. A number of the special status species occurrences and critical habitat located within five miles of the Lone Star allotment are riparian obligate species and the impacts of this livestock operation on riparian habitat is not limited to direct impacts within the riparian zone, but should include upland impacts such as water withdrawal that may have downstream impacts of the hydrologic function of the riparian areas on which these species depend. The EA is wholly silent on the amount, extent, and source of water for the Lone Star grazing operation despite the fact that any permit renewal means water withdrawal for this use will be ongoing. We protest the failure to consider these impacts to the regional hydrology and to the native riparian obligate plants and animals. Merely consulting with a hydrologist is insufficient under NEPA; the EA should have summarized the findings.</p>	<p>[Response for both comments #3 and #4]</p> <p>Through the interdisciplinary team assessment of the allotment including the qualitative rangeland health assessment hydrologic function was not considered an issue (NP in table 3 of the EA).</p> <p>Livestock source water on BLM land within five miles of the Gila River was disclosed in the S&G evaluation (4.4).</p> <p>A regional hydrologic impact analysis is beyond the scope of the allotment analysis.</p>

4	EA	<p>We protest the failure to analyze and disclose the water developments and water use for livestock operations on this allotment. A number of the special status species occurrences and critical habitat located within five miles of the Lone Star allotment are riparian obligate species. EA at 13. The impacts of this livestock operation on riparian habitats is not limited to direct impacts within the riparian zone, but should include upland impacts such as water withdrawal that may have downstream impacts of the hydrologic function of the riparian areas on which these species depend. The EA is wholly silent on the amount, extent, and source of water for the Lone Star grazing operation despite the fact that any permit renewal means water withdrawal for this use will be ongoing. We protest the failure to consider these impacts to the regional hydrology and to the native riparian-obligate plants and animals.</p>	
5	S&G	<p>We protest the failure to take a hard look at the existing conditions relative to the intended use of the allotment. The EIS sets an objective of maintaining forage available for livestock at 148 CYL, and increasing specific grass species composition. EIS at A-27. The S&G does not evaluate whether the 1978 EIS objectives have been met, and simply sets new ones. S&G at 17. It is unclear how the new objectives relate to the older objectives regarding specific species because the new objectives lump species into total composition, but the S&G is incomplete without a full comparison to old objectives. Claims that the allotment is progressing towards meeting Standard 3 are unsupported without use of data older than 2006. The use of existing conditions to set objectives is unfortunately circular, and fails NEPA and FLPMA, as well as the agency's own regulations.</p>	<p>Since the Upper Gila San Simon Grazing EIS was finalized the allotments and their grazing use has been altered through implementation of Allotment Management Plans, initiation of grazing systems, construction of boundary and pasture fences, construction of water developments, exclusion of some areas, and implementation of new policies (riparian, drought etc.). Monitoring has also changed over time through the abandonment, establishment and movement of some key areas, and changes in monitoring techniques. All of these circumstances confound comparative analysis across large segments of time. The Bureau determined that data collected in the last ten years was the most pertinent, accurate and comparable to use in the evaluation process.</p> <p>In addition to any available monitoring data, the BLM uses the 17 indicators of rangeland health to evaluate land health conditions. The interrelated attributes of soil/site stability,</p>

			hydrologic function, and biotic integrity were evaluated by an interdisciplinary team to determine if ecological processes related to those attributes are functioning within a normal range of variation. As described in Technical Reference 1734-6, Interpreting Indicators of Rangeland Health, these evaluations “provide early warnings of potential problems and opportunities by helping land managers identify areas that are potentially at risk of degradation or where resource problems currently exist.” As a result of the land health evaluation on this allotment and based on the indicators used in that assessment, it was determined that, while standard one the Arizona Standards for Rangeland Health (upland sites) was being met, standard two (riparian wetland sites) was not applicable, and standard three (desired resource conditions) was progressing towards being met. Current livestock management practices were not identified as a contributing factor.
6	S&G	We protest the failure to consider what the impacts of livestock grazing might be, since the S&G results reflect more what the effects of no grazing is. The Upland Health Assessments were conducted in 2009. The actual use on the allotment was zero in most of the previous years, with the exceptions being 2007 and 2008, where actual use was about 20 percent of the authorized use. S&G at 3. Thus, the rangeland health assessments are only reflective of what effects very reduced or no grazing use has on the allotment, and cannot be used to indicate that the proposed action will not have any adverse impact. The S&G admits that destocking has occurred due to drought. S&G at 18.	While rangeland health assessments are point in time assessments, many of the indicators are related to conditions that have developed over time. The Bureau does not believe that upland health assessments have the restricted scope described in the protest point.
7	EA	We protest the failure to develop a plan within the EA to ensure against harms to federally protected species. The EA states that BLM is currently developing a plan to evaluate livestock concentration areas on BLM lands that may	Specific to the Lone Star allotment the Bureau identified five dirt tanks within five miles of southwestern willow flycatcher designated critical habitat (S&G 4.4). Impacts to willow flycatchers were considered and a no effect determination

		<p>negatively affect southwest willow flycatcher habitat. EA at 14. This EA would have been the perfect place to analyze livestock concentration areas on the Lone Star allotment; BLM's failure to do so is a failure to take a hard look at the effects of the proposed action on sensitive and imperiled species, and we protest this failure. This fails the Bureau's own sensitive species policy and compliance with the ESA.</p>	<p>made (EA Table 3).</p> <p>The bureau has followed its policy for considering Bureau sensitive species and has complied with the Endangered Species Act.</p>
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